

Mikulski
Murkowski

Sanders
Sullivan

Toomey
Vitter

The bill (S. 1890), as amended, was passed.

AMERICA'S SMALL BUSINESS TAX RELIEF ACT OF 2015—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MCCONNELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The motion to proceed on H.R. 636.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 55, H.R. 636, an act to amend the Internal Revenue Code of 1986 to permanently extend increased expensing limitations, and for other purposes.

Mitch McConnell, Orrin G. Hatch, Daniel Coats, Lamar Alexander, John Boozman, James M. Inhofe, Chuck Grassley, Mike Crapo, Richard Burr, Thad Cochran, Johnny Isakson, Roy Blunt, Dean Heller, John Thune, John McCain, John Cornyn, Steve Daines.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the mandatory quorum call be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

DEFEND TRADE SECRETS BILL

Mr. DURBIN. Mr. President, I am pleased that the Senate voted today on the Defend Trade Secrets Act. I am proud to be an original cosponsor of this legislation, which would create a Federal civil cause of action to help deter and remedy trade secret theft that is costing American businesses hundreds of billions of dollars each year.

Trade secrets, such as manufacturing processes, industrial techniques, and customer lists, are critical assets for U.S. companies. However, American companies are increasingly being targeted by efforts to steal this proprietary information, often by overseas interests. Currently, there is no Federal civil remedy available to companies to fight this theft, and the Justice Department does not have the resources to investigate and prosecute criminally all of the thefts that are taking place. While most States have passed civil trade secret laws, these laws are not well suited for remedying interstate or foreign trade secret theft. The lack of a Federal civil remedy for trade secret misappropriation is a glaring

gap in current law, especially since Federal civil remedies are available to protect other forms of intellectual property such as patents, trademarks, and copyrights.

The Defend Trade Secrets Act would close this gap by creating a civil right of action in Federal court for misappropriation of a trade secret that is related to a product or service used in interstate or foreign commerce. Available remedies would include injunctions, damages, and in certain cases enhanced damages. This broadly bipartisan bill has been carefully crafted to empower companies to protect their trade secrets through a process that will be both swift and fair. By helping American companies safeguard their essential trade secrets from theft, the bill will help keep innovation and jobs in America.

The Defend Trade Secrets Act has been cosponsored by 65 Senators and is supported by groups and companies representing a broad swath of the American economy, including numerous employers based in my home State of Illinois, such as Caterpillar and Illinois Tool Works. I am pleased that the Senate is moving forward with passage of this legislation, and I hope the bill will soon pass the House of Representatives and be signed into law.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. LEAHY. Today, the Senate voted on legislation that will provide a valuable tool to protect against trade secret theft. This legislation is supported by businesses from diverse sectors of our economy, including companies large and small.

In Vermont, trade secrets protect the specialized knowledge of woodworkers who have made heirloom products for generations, and cutting-edge start-ups that are shaping the future of plastics, software, and green technology. Trade secrets protect the recipes for Vermont craft brews and closely guarded customer lists for our top tourist services. Today's legislation provides an important tool to protect these innovative businesses in Vermont and across the country.

The Defend Trade Secrets Act contains a bipartisan provision I offered with Senator GRASSLEY to ensure that employers and other entities cannot bully whistleblowers or other litigants by threatening them with a lawsuit for trade secret theft. The provision protects disclosures made in confidence to law enforcement or an attorney for the purpose of reporting a suspected violation of law and disclosures made in the course of a lawsuit, provided that the disclosure is made under seal. It requires employers to provide clear notice of this protection in any non-disclosure agreements they ask individuals to sign. This commonsense public policy amendment is supported by the Project on Government Oversight and the Government Accountability Project and builds upon valuable scholarly work by Professor Peter Menell.

Good, thoughtful work was done in the Senate Judiciary Committee to craft the bill we are voting on today, which builds on earlier versions introduced in prior Congresses. It is a testament to how the Judiciary Committee can and should operate when it functions with regular order. We held a public hearing on the issue of trade secret theft in the Subcommittee on Crime and Terrorism during the 113th Congress and another hearing in the full committee this past December. Senators suggested improvements to the bill, they debated them, and they voted on the legislation.

Unfortunately, the regular order and fair consideration that was given to this legislation is being denied for one of the Senate's most important and solemn responsibilities: considering the Supreme Court nomination pending in the Senate Judiciary Committee. Americans by a 2-to-1 margin want the Senate to move forward with a full and fair process for Chief Judge Garland. The Senate today is coming together to pass trade secrets legislation, but that does nothing to absolve us from doing our jobs by considering the pending Supreme Court nominee. •

Mrs. FEINSTEIN. Mr. President, I wish to express my support for the Defend Trade Secrets Act and to explain some of the changes that were made in the Judiciary Committee to ensure the bill does not adversely impact California.

First, let me congratulate Senators HATCH and COONS on their work on this bill.

This bill will help protect vital trade secrets of American companies by providing a Federal cause of action for the theft of trade secrets. It will ensure there is access to Federal courts in these cases. During consideration of the bill in the Judiciary Committee, some members, including me, voiced concern that the injunctive relief authorized under the bill could override State law limitations that safeguard the ability of an employee to move from one job to another. This is known as employee mobility. Some States, including California, have strong public policies or laws in favor of employee mobility. These are reflected in some State court precedent or in laws that are on the books.

When this bill came before the Judiciary Committee, there was a serious concern that a Federal law without similar limits would override the law in those States and create impairments on employees' ability to move from job to job. If that were to happen, it could be a major limitation on employee mobility that does not exist today. To prevent this, the bill now includes language to preserve the law in California and elsewhere. Specifically, the bill bars an injunction "to prevent a person from entering into an employment relationship," period. In other words, relief under this bill cannot include an injunction barring a person from starting a new job. As I understand it, this